

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ODELIA ABECASSIS, et al.,	§	
	§	
	§	
<i>Plaintiffs,</i>	§	
v.	§	Civil Action No. 4:09-cv-03884
	§	
OSCAR S. WYATT, JR., et al.,	§	
	§	
<i>Defendants.</i>	§	

ORDER

This matter is before the Court on the joint motion of Third-Party Plaintiffs and certain Third-Party Defendants to establish an orderly schedule for Third-Party Defendants' responses to the Third-Party Complaint filed by Third-Party Plaintiffs on October 30, 2012 (Dkt. No. 186) (the "Third Party Complaint"). For good cause shown, the joint motion is GRANTED.

It is therefore ORDERED that:

1. On or before June 26, 2013, Third-Party Plaintiffs shall file a statement with the Court identifying the Third-Party Defendants on which they purport to have served a summons and Third-Party Complaint and indicating when each party was purportedly served.
2. In accordance with the Court's Order, dated May 7, 2013 (Dkt. No. 264), on or before July 1, 2013, Third-Party Defendants purportedly served on or before May 31, 2013, shall respond to the Third-Party Complaint by serving and filing their Answer(s) or Motion(s) to Dismiss.
3. Third-Party Defendants that choose to file a motion to dismiss the Third-Party Complaint shall be required in their motion(s) to identify all grounds under Fed. R.

Civ. P. 12(b) or *forum non conveniens* upon which their motions are based. Third Party-Defendants that responded to the Third-Party Complaint prior to entry of this order may also file *forum non conveniens* motions on or before July 1, 2013.

However, at the time of filing of the motion(s) any third-party defendant may elect, at its sole discretion, to defer briefing on grounds for dismissal pursuant to Fed. R. Civ. P. 12(b)(2)-(5) or the doctrine of *forum non conveniens* until after the Court's resolution of motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), unless the Third-Party Complaint shall have been dismissed in its entirety as to that Third-Party Defendant.

4. Third-Party Defendants may, at their option, file a consolidated brief on common issues in support of their motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). This shall not preclude Third-Party Defendants from raising grounds to dismiss the Third-Party Complaint pursuant to Fed. R. Civ. P. 12(b)(6) in any separate filing.
5. Third-Party Defendants that identify one or more grounds for dismissal under Fed. R. Civ. P. 12(b)(2)-(5) in their motion(s), but elect to brief such issues at the time for supplemental briefing provided for in paragraph 7 below, shall be deemed to have preserved such defenses in full, in accordance with Fed. R. Civ. P. 12(g) and 12(h). Similarly, the right of Third-Party Defendants to seek dismissal of all or part of the case pursuant to the doctrine of *forum non conveniens* shall also be preserved in full until the time for supplemental briefing provided for in paragraph 7 below, provided that such Third-Party Defendants have identified the doctrine in their motion(s).
6. On or before August 1, 2013, Third-Party Plaintiffs shall file and serve papers in opposition to the motion(s) filed and briefed on common issues by Third-Party

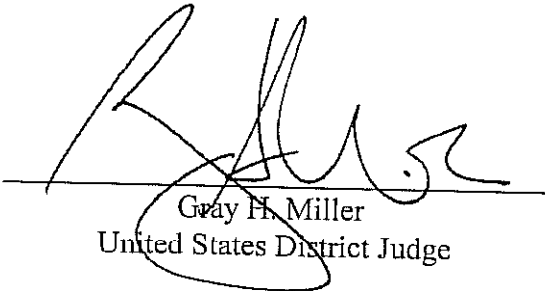
Defendants on or before July 1, 2013, but otherwise reserving their rights to seek additional time to respond, or other appropriate relief, as to any motions to dismiss filed by Third-Party Defendants who submit individual briefs in support of their motions to dismiss pursuant to Rule 12(b)(6), or who elect not to defer briefing on grounds for dismissal pursuant to Fed. R. Civ. P. 12(b)(2)-(5) or the doctrine of *forum non conveniens* until after the Court's resolution of motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). On or before August 12, 2013, Third-Party Defendants may file and serve reply papers in support of those motions. Third-Party Defendants may file a consolidated reply brief on common issues of no more than 12 pages, and each Third-Party Defendant may file separate reply papers of no more than 5 pages.

7. Unless the Third-Party Complaint shall have been dismissed in its entirety, within 30 days following the Court's resolution of Third-Party Defendants' motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), Third-Party Plaintiffs and any Third-Party Defendants remaining in the action jointly shall submit to the Court a proposed schedule for the orderly briefing of preserved grounds for dismissal pursuant to Fed. R. Civ. P. 12(b)(2)-(5) or the doctrine of *forum non conveniens*. If the parties are unable to agree on a proposed schedule, they will so advise the Court, and, if appropriate, request a status conference at which time such issues can be addressed with the Court.
8. In the event that Third-Party Plaintiffs file an amended third-party complaint before resolution of Third-Party Defendants' motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), the parties will meet and confer regarding a proposed schedule for briefing motions to dismiss such amended third-party complaint. Within 14 days

following the filing of any amended third-party complaint, the parties shall submit a proposed briefing schedule for the Court's approval or, if there are any disagreements, shall submit a report identifying such disputes to the Court for resolution. In the event that Third-Party Plaintiffs file an amended third-party complaint, Third-Party Defendants may, at their option, proceed with bifurcated briefing of their motion(s) to dismiss as set forth in paragraphs 3 through 5 above.

9. This [Proposed] Order shall not be construed as a waiver of any of the Third-Party Defendants' defenses, or any of the Third-Party Plaintiffs' claims. Third-Party Defendants have reserved all defenses they may have to Third-Party Plaintiffs' claims in this action and have expressly reserved their right to assert, among other defenses, lack of subject-matter jurisdiction, lack of personal jurisdiction, improper venue, insufficient process, insufficient service of process, failure to state a claim upon which relief can be granted, and failure to join a party under Fed. R. Civ. P. 19

Signed at Houston, Texas on June 27, 2013.



Gray H. Miller
United States District Judge